

Opening Statement

Background

Chairman Schiff, Ranking Member Nunes and members of the committee – good morning. I'd like to begin by thanking the Chairman and Committee for agreeing to postpone this hearing for a week. This provided sufficient time to allow the Executive Branch to successfully complete its consultations regarding how to accommodate the committee's request.

Mr. Chairman, as I have told you on at least two occasions, and I want to say this publically, I respect this committee and I welcome and take seriously your Committee's oversight role.

During my confirmation process to be Director of the National Counterterrorism Center – I told the Senate Select Committee for Intelligence that Congressional oversight of intelligence activities is critical to the successful operation of the IC.

Having served as the Director of our Counterterrorism Center for eight months, and as the Acting Director of National Intelligence for the past six weeks, I continue to believe strongly in the role of Congressional oversight.

As I pledged to the Senate, I pledge to you today that I will continue to work closely with Congress while I am serving either in this capacity as Acting Director of National Intelligence, or when I return to lead the National Counterterrorism Center – to ensure you are fully and currently informed of intelligence activities to facilitate your ability to perform your oversight of the intelligence community.

The American people expect us to keep them safe. The Intelligence Community cannot do that without this Committee's support.

Before I turn to the matter at hand, there are a few things I would like to say.

I am not partisan and I am not political – I believe in a life of service and I am honored to be a public servant. I served under eight previous presidents while I was in uniform. I have taken an oath to the Constitution 11 times. The first time when I was sworn into the United States Navy in 1974 and for the nine times I was promoted throughout my 36 year career. Most recently, former Director Coats administered the Oath of office last December when I became the Director of the National Counterterrorism Center.

The Oath is sacred. Its foundation is our Constitution. The oath to me means not only that I swear true faith and allegiance to that sacred document, but more importantly I view it as a covenant I have with the workforce I lead and with every American that I will well and faithfully discharge the duties of my office.

I come from a long line of public servants who have stepped forward even in the most difficult and austere times to support and defend our country. When I took my uniform off in July 2010, it was the first time in 70 years that a member of my immediate family was not wearing the cloth of the nation.

As a Naval Special Warfare Officer, I had the honor of commanding at every level in the SEAL Community. It was at times very demanding, but the rewards of serving in America's Special Operations Community more than make up for the demands.

After my retirement from the Navy, I was fortunate to work in a great private sector firm.

I left the business world after three years to lead a nonprofit charity. Some questioned why I would leave a promising business career to run a charity. The answer is quite simple – it was another opportunity to serve.

I led a Foundation dedicated to honoring the sacrifice of our fallen and severely wounded Special Operators. The Foundation I led enabled hundreds of the children of our fallen to attend college. It was extremely meaningful and rewarding.

In the winter of 2018, I was asked by former Director Dan Coats to return to government service to lead the National Counterterrorism Center. This request was totally unexpected and was not a position I sought --- but again --- it was another opportunity to serve my country.

In particular, I knew that many of the young sailors and junior officers I trained 20 years earlier are now senior combat veterans still deploying and sacrificing. I decided that if they can continue to serve, returning to government service was the least I could do.

And now – here I am sitting before you as Acting Director of National Intelligence. With last month’s departure of Dan Coats and Sue Gordon - two exceptional leaders and friends – I was asked to step into their very big shoes and lead the Intelligence Community until the President nominates and the Senate confirms the next Director of National Intelligence.

I accepted this responsibility because I love this country. I have a deep and profound respect for the men and women in our Intelligence Community and the mission we execute every day on behalf of the American people.

Throughout my career, I have served and led through turbulent times. I have governed my every action by the following criteria – it must be legal, it must be moral, and it must be ethical.

No one can take away an individual's integrity. It can only be given away. If every action meets those criteria – you will always be a person of integrity.

In my nearly four decades of public service my integrity has never been questioned – until now.

I am here today to unequivocally state that as Acting DNI - I will continue that same faithful and nonpartisan service in a manner that adheres to the Constitution and the laws of this great country as long as I serve in this position – for whatever period that may be.

And I want to make clear that I have upheld my responsibility to follow the law every step of the way in the matter before us today.

Importance of Whistleblowers

I also want to state my support for whistleblower rights and laws. Whistleblowing has a long history in our country dating back to the Continental Congress.

This is not surprising because, as a nation, we desire for good government. Therefore we must protect those who demonstrate the courage to report alleged wrongdoing, whether on the battlefield or in the workplace.

Indeed, at the start of ethics training in the Executive Branch each year, we are reminded that public service is a public trust. And as public servants, we have a solemn responsibility to do what is right, which includes reporting concerns of waste, fraud, and abuse, and bringing such matters to the attention of Congress under the Intelligence Community Whistleblower Protection Act.

I applaud all employees who come forward under this Act. I am committed to ensuring that all whistleblower complaints are handled appropriately and to protecting the rights of whistleblowers.

In this case, the complainant raised a matter with the Intelligence Community Inspector General. The Inspector General is properly protecting the complainant's identity, and we will not permit that complainant to be subject to any retaliation or adverse consequences for communicating the complaint to the IG.

Upholding the integrity of the Intelligence Community and our workforce is my number one priority. Throughout my military career, I relied on the men and women of the intelligence community to do their job so I could do mine. I can personally attest that their efforts save lives.

The Complaint

I would now like to turn to the complaint and provide general background on how we got where we are today.

On August 26, the Inspector General forwarded to me a complaint from an employee in the Intelligence Community.

The Inspector General stated that the complaint raised an “urgent concern,” a legally defined term under IC Whistleblower Protection Act that has been discussed at length in our letters to the committee of September 13 and 17.

Before I turn to a discussion about whether the complaint meets the definition of urgent concern, I first want to discuss an even more fundamental issue.

Upon reviewing the complaint, we were immediately struck by the fact that many of the allegations in the complaint are based on a conversation between the President and another foreign leader, and such calls are typically subject to Executive privilege.

As a result, we consulted with the White House Counsel’s Office and we were advised that much of the information in the complaint was in fact subject to Executive privilege – a privilege that I did not have the authority to waive. Because of that, we were unable to immediately share the details of the complaint with the committees, but continued to consult with the White House Counsel’s Office in an effort to do so.

Yesterday the President released the transcript of the call in question, and therefore we are now able to disclose the details of both the complaint and the Inspector General’s letter to us transmitting the complaint.

As a result, I have provided the House and Senate intelligence committees with the full, unredacted complaint, as well as the Inspector General’s letter.

Let me also discuss the issue of urgent concern. When transmitting the complaint to me, the Inspector General took the legal position that because the complaint alleges a matter of “urgent concern”, and because he found the allegations to be credible, I was required under the IC Whistleblower Protection Act to forward the complaint to our oversight committees within seven days of receiving it.

As we have previously explained in our letters, “urgent concern” is a statutorily defined term. To be an “urgent concern,” the allegations must, in addition to being classified:

- (1) assert a serious or flagrant problem, abuse, violation of law;

AND

- (2) relate to the funding, administration, or operation of an intelligence activity within the responsibility and authority of the DNI.

However, this complaint concerns conduct by someone outside the Intelligence Community unrelated to the funding, administration, or operation of an intelligence activity under my supervision.

Because the allegations on their face did not appear to fall into the statutory framework, my office consulted with the US Department of Justice Office of Legal Counsel, and included the Inspector General in those consultations.

After reviewing the complaint and the Inspector General's transmittal letter, the Office of Legal Counsel determined that the complaint's allegations do not meet the statutory definition of urgent concern and found that I was not legally required to transmit the material to our oversight committees under the IC Whistleblower Protection Act. An unclassified version of this Office of Legal Counsel memo has been publicly released. As you know, Office of Legal Counsel opinions are binding on the Executive Branch.

In particular, the Office of Legal Counsel opinion states that the President is not a member of the intelligence community, and his communication with a foreign leader involved no intelligence operation or other activity aimed at collecting or analyzing foreign intelligence.

While this OLC opinion did not require transmission of the complaint to the committees, it did leave me with the discretion to forward the complaint to the committees.

However, given the executive privilege issues I discussed, neither the Inspector General nor I were able to share the details of the complaint at the time.

When the Inspector General informed me he still intended to notify the committees of the existence of the complaint, I supported that decision to ensure the Committees were kept as informed as possible as this process moved forward.

I want to raise a few other points about the situation we find ourselves in.

First, I want to stress that I believe the whistleblower and the Inspector General have acted in good faith throughout. I have every reason to believe that they have done everything by the book and followed the law, respecting the privileged nature of the information, and patiently waiting while the executive privilege issues were resolved.

Whenever possible, we have worked in partnership with the Inspector General on this matter. While we had differing opinions on the issue of “urgent concern,” I strongly believe in the role of the Inspector General. I greatly value the independence that he brings and his dedication to his role in keeping me and the Committees informed of matters within the Intelligence Community.

Second, although Executive privilege prevented us from sharing the details of the complaint with the committees until recently, this does not mean that the complaint was ignored. The Inspector General, in consultation with my office, referred this matter to the Department of Justice to investigate the allegations.

Finally, I appreciate that in the past, whistleblower complaints may have been provided to Congress regardless of whether they were deemed credible or satisfied the urgent concern requirements. However, I am not familiar with any prior instances where a whistleblower complaint touched on such complicated and sensitive issues, including Executive privilege. I believe this matter is unprecedented. I also believe that I handled this matter in full compliance with the law at all times, and I am committed to continuing to do so.

I appreciate the committee providing this opportunity to discuss this matter, and my ongoing commitment to work with Congress in its important oversight role. Thank you.